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7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation
Against:

12 CAROLYN GAY RUSH
13 AKA CARRIE RUSH
14 AKA CARRIE VERNON
15 AKA CAROLYN GAY VERNON
301 E. Roberts Lane
Bakersfield, CA 90338

16 Registered Nurse License No. 465165 (revoked
9/12/2002)
17 Registered Nurse License No. 465165 (reinstated
4/27/2007, no issuance),

18 Respondent.
19

Case No. 98-42

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

20 FINDINGS OF FACT

21 1. On or about November 24, 2008, Complainant Ruth Ann Terry, M.P.H.,
22 R.N. (Complainant), in her official capacity as the Executive Officer of the Board of Registered
23 Nursing, Department of Consumer Affairs, filed Petition to Revoke Probation (Petition) No.
24 98-42 against Carolyn Gay Rush (Respondent) before the Department of Consumer Affairs.

25 2. On or about March 31, 1991, the Board of Registered Nursing (Board)
26 issued Registered Nurse License No. 465165 (revoked 9/12/2002) to Respondent. The
27 Registered Nurse License expired on July 31, 2002, and has not been renewed.

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1 3. By its decision in Board of Registered Nursing Case No. 98-42, *In the*
2 *Matter of the Accusation Against Carolyn Gay Rush*, the Board revoked Respondent' license.
3 However, the revocation was stayed, and Respondent was placed on probation, subject to certain
4 terms and conditions. Due to Respondent's failure to comply with these terms and conditions,
5 the Board revoked Respondent's license by Default Decision and Order, effective September 12,
6 2002, in the action entitled, *In the Matter of the Accusation and Petition to Revoke Probation*
7 *Against Carolyn Gay Rush*, bearing the same case number, Case No. 98-42.

8 4. On September 18, 2006, Respondent¹ filed a Petition for Reinstatement in
9 Case No. 98-42, which the Board considered in the action entitled "In the Matter of Petition for
10 Reinstatement of Carolyn Gay Rush," Office of Administrative Hearings Case
11 No. L-2007010685. The Board of Registered Nursing issued its decision, effective April 27,
12 2007, in which Respondent's Petition for Reinstatement was granted. In granting the petition, the
13 Board immediately revoked Respondent's license. However, the revocation was stayed and
14 Respondent was placed on probation for a period of five (5) years with certain terms and
15 conditions.

16 5. On or about December 10, 2008, Rebeca Garcia, an employee of the
17 Department of Justice, served by Certified and First Class Mail a copy of Petition No. 98-42,
18 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
19 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
20 was and is: 301 E. Roberts Lane, Bakersfield, CA 90338. A copy of the Petition is attached as
21 Exhibit A, and is incorporated herein by reference.

22 6. Service of the Petition was effective as a matter of law under the
23 provisions of Government Code section 11505, subdivision (c).

24 7. On or about December 22, 2008, the aforementioned documents were
25 returned by the U.S. Postal Service marked "Return to Sender, Deceased."

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27 1. Respondent was the Petitioner in her Petition for Reinstatement, and is the Respondent
28 in this Petition to Revoke. For ease of reading, the term Respondent will be used from this
point forward.

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IT IS SO ORDERED that Registered Nursing License No. 465165 (revoked 9/12/2002), heretofore issued to Respondent Carolyn Gay Rush is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 8, 2009.

It is so ORDERED June 8, 2009
Ashanne Phillips MSN, RN, FNP-BC

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

50390485.wpd
DOJ docket number:LA2008601164

Attachment:

Exhibit A: Petition to Revoke Probation No.98-42

Exhibit A

Petition to Revoke Probation No. 98-42

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY J. SALUTE
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation
Against:

Case No. 98-42

12 CAROLYN GAY RUSH
13 aka CARRIE RUSH
aka CARRIE VERNON
14 aka CAROLYN GAY VERNON
301 E. Roberts Lane
15 Bakersfield, CA 90338

**PETITION TO REVOKE
PROBATION**

16 Registered Nurse License No. 465165

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
22 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
23 Registered Nursing, Department of Consumer Affairs.

24 2. On or about March 31, 1991, the Board of Registered Nursing (Board)
25 issued Registered Nurse License No. 465165 to Carolyn Gay Rush aka Carrie Rush aka Carrie
26 Vernon aka Carolyn Gay Vernon (Respondent). Respondent's Registered Nurse License expired
27 on July 31, 2002, and has not been renewed.

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1 3. By its decision in Board of Registered Nursing Case No. 98-42, *In the*
2 *Matter of the Accusation Against Carolyn Gay Rush*, the Board revoked Respondent's license.
3 However, the revocation was stayed, and Respondent was placed on probation, subject to certain
4 terms and conditions. Due to Respondent's failure to comply with these terms and conditions,
5 the Board revoked Respondent's license by Default Decision and Order, effective September 12,
6 2002, in the action entitled, *In the Matter of the Accusation and Petition to Revoke Probation*
7 *Against Carolyn Gay Rush*, bearing the same case number, Case No. 98-42.

8 4. On September 18, 2006, Respondent¹ filed a Petition for Reinstatement in
9 Case No. 98-42, which the Board considered in the action entitled "In the Matter of Petition for
10 Reinstatement of Carolyn Gay Rush," Office of Administrative Hearings Case
11 No. L-2007010685. The Board of Registered Nursing issued its decision, effective April 27,
12 2007, in which Respondent's Petition for Reinstatement was granted. In granting the petition, the
13 Board immediately revoked Respondent's license. However, the revocation was stayed and
14 Respondent was placed on probation for a period of five (5) years with certain terms and
15 conditions. A copy of that decision is attached as Exhibit A and incorporated by reference.

16 JURISDICTION

17 5. This Petition to Revoke Probation is brought before the Board under the
18 authority of the following laws. All Section references are to the Business and Professions Code
19 (Code) unless otherwise indicated.

20 STATUTORY PROVISIONS

21 6. Section 2750 provides, in pertinent part, that the Board may discipline any
22 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
23 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

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25 2VCHYH10
26 DEC 12 2006
27 15-53 6/1 1:30
28 1. Respondent was the Petitioner in her Petition for Reinstatement, and is the Respondent
in this Petition to Revoke. For ease of reading, the term Respondent will be used from this
point forward.

1 7. Section 2764 provides, in pertinent part, that the expiration of a license
2 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
3 licensee or to render a decision imposing discipline on the license.

4 **FIRST CAUSE TO REVOKE PROBATION**

5 **(Failure to Comply with Board's Probation Program)**

6 8. At all times after the effective date of Respondent's probation, Probation
7 Condition No. 2 stated:

8 “(2) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Petitioner
9 shall fully comply with conditions of the Probation Program established by the
10 Board and cooperate with representatives of the Board in its monitoring and
11 investigation of the Petitioner's compliance with the Board's Probation Program.
Petitioner shall inform the Board in writing within no more than 15 days of any
address change and shall at all times maintain an active, current license status with
the Board, including during any period of suspension.

12 Upon successful completion of probation, Petitioner's license shall be fully
13 restored.”

14 9. Respondent's probation is subject to revocation because she failed to
15 comply with Probation Condition Nos. 3, 5, 6, 14, 15, and 16, as referenced below and
16 incorporated by reference.

17 **SECOND CAUSE TO REVOKE PROBATION**

18 **(Failure to Report in Person)**

19 10. At all times after the effective date of Respondent's probation, Probation
20 Condition No. 3 stated:

21 “(3) REPORT IN PERSON - Petitioner, during the period of probation, shall
22 appear in person at interviews/meetings as directed by the Board or its designated
representatives.”

23 11. Respondent's probation is subject to revocation because she failed to
24 comply with Probation Condition No. 3, referenced above, by failing to report for her scheduled
25 orientation interview on August 22, 2007, or at any time thereafter.

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THIRD CAUSE TO REVOKE PROBATION

(Failure to Submit Written Reports)

12. At all times after the effective date of Respondent's probation, Probation Condition No. 5 stated:

"(5) SUBMIT WRITTEN REPORTS - Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license."

13. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 5, referenced above, by failing to submit the required Data Report form and Quarterly Report forms.

FOURTH CAUSE TO REVOKE PROBATION

(Failure to Function as a Registered Nurse)

14. At all times after the effective date of Respondent's probation, Probation Condition No. 6 stated:

"(6) FUNCTION AS A REGISTERED NURSE - Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice or registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Petitioner has not complied with this condition during the probationary term, and the Petitioner has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply."

1 15. Respondent's probation is subject to revocation because she failed to
2 comply with Probation Condition No. 6, referenced above, by failing to engage in any practice of
3 registered nursing in California during her probationary period, as evidenced by Respondent's
4 failure to renew her expired license.

5 **FIFTH CAUSE TO REVOKE PROBATION**

6 **(Failure to Identify Coordinating Health Care Professional to**
7 **Monitor Abstinence from Use of Psychotropic Drugs)**

8 16. At all times after the effective date of Respondent's probation, Probation
9 Condition No. 14 stated:

10 “(14) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING)
11 DRUGS - Petitioner shall completely abstain from the possession, injection or
12 consumption by any route of all psychotropic (mood-altering) drugs, including
13 alcohol, except when the same are ordered by a health care professional legally
14 authorized to do so as part of documented medical treatment. Petitioner shall
15 have sent to the Board, in writing and within fourteen (14) days, by the
16 prescribing health professional, a report identifying the medication, dosage, the
17 date the medication was prescribed, the Petitioner's prognosis, the date the
18 medication will no longer be required, and the effect on the recovery plan, if
19 appropriate.

20 Petitioner shall identify for the Board a single physician, nurse practitioner or
21 physician assistant who shall be aware of Petitioner's history of substance abuse
22 and will coordinate and monitor any prescriptions for Petitioner for dangerous
23 drugs, controlled substances or mood-altering drugs. The coordinating physician,
24 nurse practitioner, or physician assistant shall report to the Board on a quarterly
25 basis Petitioner's compliance with this condition. If any substances considered
26 addictive have been prescribed, the report shall identify a program for the time
27 limited use of any such substances.

28 The Board may require the single coordinating physician, nurse practitioner, or
physician assistant to be a specialist in addictive medicine, or to consult with a
specialist in addictive medicine.”

17. Respondent's probation is subject to revocation because she failed to
comply with Probation Condition No. 14, referenced above, by failing to identify a physician,
nurse practitioner, or physician assistant who would coordinate and monitor any prescriptions for
Respondent, and who would report Respondent's compliance with Condition No. 14 to the Board
on a quarterly basis.

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3 **SEVENTH CAUSE TO REVOKE PROBATION**

4 **(Failure to Participate in Therapy or Ongoing Counseling)**

5 20. At all times after the effective date of Respondent's probation, Probation
6 Condition No. 16 stated:

7 "(16) THERAPY OR COUNSELING PROGRAM - Petitioner, at her expense,
8 shall participate in an on-going counseling program until such time as the Board
9 releases her from this requirement and only upon the recommendation of the
10 counselor. Written progress reports from the counselor will be required at various
11 internals. Petitioner's current participation in Teen Challenge Ministry Institute
12 shall satisfy this requirement."

13 21. Respondent's probation is subject to revocation because she failed to
14 comply with Probation Condition No. 16, referenced above, by failing to participate in therapy or
15 ongoing counseling and her related failure to submit any progress reports of the same.

16 **PRAYER**


17 WHEREFORE, Complainant requests that a hearing be held on the matters herein
18 alleged, and that following the hearing, the Board issue a decision:

19 1. Revoking the probation that was granted by the Board in Case No. 98-42,
20 Office of Administrative Hearings Case No. L-2007010685, and imposing the disciplinary order
21 that was stayed, thereby revoking Registered Nurse License No. 465165 issued to Respondent;

22 2. Revoking or suspending Registered Nurse License No. 465165, issued to
23 Respondent; and

24 3. Taking such other and further action as deemed necessary and proper.

25 DATED: 11/24/08

26
27 
28 RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

Exhibit A

Decision and Order, effective April 27, 2007

Board of Registered Nursing Case No. 98-42

APR 27 2007 1:32

FILED

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement:

Carolyn Gay Rush

Registered Nurse License No. 465165

Petitioner.

OAH No. L2007010685

DECISION

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on April 27, 2007.

IT IS SO ORDERED this 27th day of March 2007.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of Petition for Reinstatement
of:

CAROLYN GAY RUSH

Petitioner,

OAH No. L2007010685

DECISION

This matter was heard by a quorum of the Board of Registered Nursing on February 15, 2007, in Los Angeles, California. Administrative Law Judge Humberto Flores from the Office of Administrative Hearings presided.

Joseph N. Zimring, Deputy Attorney General, represented the Department of Justice.

Petitioner Carolyn Gay Rush appeared personally and represented herself.

Oral and documentary evidence was received and the matter was submitted for decision. The Board of Registered Nursing (Board) finds as follows:

FACTUAL FINDINGS

1. On September 18, 2006, Carolyn Gay Rush (Petitioner) submitted a Petition for Reinstatement to the Board
2. On March 31, 1991, the Board issued Registered Nurse License No. 465165 to Petitioner.
3. By a Decision in Case No. 98-42, effective April 11, 1999, the Board revoked petitioner's license. The revocation was stayed and Petitioner was placed on probation for five years on certain conditions. The Decision was based on *Factual Findings* that Petitioner: (1) possessed and self administered controlled substances that had been prescribed for a patient in her care; (2) made false entries in patient and hospital records; and (3) was convicted of violating Health and Safety Code section 11173, subdivision (b), making false statements on a prescription, order or record.

4. By Default Decision and Order effective September 12, 2002, the Board revoked Petitioner's license. The Board's Decision was based on a determination that Petitioner: (1) possessed and self-administered a controlled substance in violation of Health and Safety Code section 11377, subdivision (a); (2) failed to comply with numerous conditions of probation imposed by the Board including, inter alia, failure to abstain from consumption of controlled substances and submitting diluted urine specimens for drug testing.

5. Petitioner presented substantial evidence of rehabilitation. Shortly after suffering the revocation of her registered nurse license, Petitioner sought counseling at the Teen Challenge Women's Campus in Bakersfield, California. This is rigorous one-year residential drug and alcohol rehabilitation program. After graduating from the program, Petitioner became an intern who provided guidance and encouragement to younger women who had entered the program. Petitioner is now a student at the Teen Challenge Ministry Institute where she is receiving formal training on counseling others to overcome drug and alcohol addiction. In addition, Petitioner continues to participate in a support group at Teen Challenge. Finally, Petitioner presented numerous letters of reference supporting her petition.

LEGAL CONCLUSIONS

Cause exists to grant the Petition for Reinstatement of a Revoked License submitted by Petitioner pursuant to Business and Professions Code Section 2760.1, subdivision (e), by reason of Factual Finding 5. In order to insure protection of the public, the Board shall issue a probationary license with appropriate conditions.

ORDER

IT IS HEREBY ORDERED that the Petition for Reinstatement of a registered nurse license submitted by Carolyn Gay Rush is granted and a license shall be issued to Petitioner. The license issued pursuant to this order shall immediately be revoked, the order of revocation stayed and petitioner placed on probation for five years on the following conditions:

SEVERABILITY CLAUSE -

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

(1) **OBEY ALL LAWS** - Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the Petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Petitioner shall submit completed fingerprint forms and

fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If Petitioner is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(2) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Petitioner's license shall be fully restored.

(3) REPORT IN PERSON - Petitioner, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled, if and when she resides outside of California. The Petitioner must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

(5) SUBMIT WRITTEN REPORTS - Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE - Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Petitioner has not complied with this condition during the probationary term, and the Petitioner has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS - Petitioner shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Petitioner shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Petitioner shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Petitioner shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION - Petitioner shall obtain prior approval from the Board regarding Petitioner's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to the following:

(a) **Maximum** - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) **Moderate** - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Petitioner works.

(c) **Minimum** - The individual providing supervision and/or collaboration has person-to-person communication with Petitioner at least twice during each shift worked.

(d) **Home Health Care** - If Petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Petitioner as required by the Board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the Petitioner with or without Petitioner present.

(9) **EMPLOYMENT LIMITATIONS** - Petitioner shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Petitioner from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the Petitioner is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(10) **COMPLETE A NURSING COURSE(S)** - Petitioner, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his or her probationary term.

Petitioner shall obtain prior approval from the Board before enrolling in the course(s). Petitioner shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Petitioner after photocopying them for its records.

(11) **COST RECOVERY** – This provision is not applicable because the Order revoking Petitioner's license did not contain a provision for cost recovery.

(12) **VIOLATION OF PROBATION** - If Petitioner violates the conditions of her probation, the Board after giving the Petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the Petitioner's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(13) **LICENSE SURRENDER** - During Petitioner's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Petitioner may surrender her license to the Board. The Board reserves the right to evaluate Petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Petitioner will no longer be subject to the conditions of probation.

Surrender of Petitioner's license shall be considered a disciplinary action and shall become a part of Petitioner's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

(14) **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS** - Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Petitioner shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Petitioner's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Petitioner's history of substance abuse and will coordinate and monitor any prescriptions for Petitioner for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(15) SUBMIT TO TESTS AND SAMPLES - Petitioner, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The Petitioner is responsible for keeping the Board informed of Petitioner's current telephone number at all times. Petitioner shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the Petitioner shall be considered in violation of probation.

In addition, Petitioner, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Petitioner has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Petitioner fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the Petitioner shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

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(16) **THERAPY OR COUNSELING PROGRAM** - Petitioner, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals. Petitioner's current participation in Teen Challenge Ministry Institute shall satisfy this requirement.

DATED: March 27, 2007

LaFrancine Tate

LaFrancine Tate, Public Member
President
Board of Registered Nursing

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REGISTERED NURSING
BOARD OF

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1 BILL LOCKYER, Attorney General
of the State of California
2 GLYNDA B. GOMEZ, State Bar No. 143448
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2542
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation and Petition to
13 Revoke Probation Against:

14 CARRIE RUSH, aka
15 CAROLYN GAY RUSH, aka
16 CARRIE VERNON, aka
CAROLYN GAY VERNON, aka
CARRIE GAY VERNON RUSH, aka
CAROLYN GAY VERNON RUSH
520 East Magnolia Blvd., Apt. M
Burbank, California 91501

17 Registered Nurse License No. 465165

18 Respondent.

Case No. 98-42

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

19
20 **FINDINGS OF FACT**

21 1. On or about March 1, 2002, Complainant Ruth Ann Terry, M.P.H., R.N.,
22 in her official capacity as Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs, State of California, filed Accusation and Petition to Revoke Probation No.
24 98-42 against Carrie Rush, aka, Carolyn Gay Rush, aka Carrie Vernon, aka Carolyn Gay Vernon,
25 aka, Carrie Gay Vernon Rush, aka Carolyn Gay Vernon Rush ("Respondent") before the Board
26 of Registered Nursing ("Board").

27 2. On or about March 31, 1991, the Board of Registered Nursing issued
28 Registered Nurse License No. 465165 to Respondent. The Registered Nurse License was in full

1 force and effect at all times relevant to the charges brought herein and will expire on July 31,
2 2002, unless renewed.

3 3. On or about March 22, 2002, Corinia V. Talaro, an employee of the
4 Department of Justice, served by Certified and First Class Mail a copy of Accusation and
5 Petition to Revoke Probation No. 98-42, Statement to Respondent, Notice of Defense, Request
6 for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's
7 address of record with the Board, which was and is 520 East Magnolia Boulevard, Apt. M,
8 Burbank, California 91501. A copy of the Accusation and Petition to Revoke Probation, the
9 related documents, and Declaration of Service are attached hereto as exhibit A, and are
10 incorporated herein by reference.

11 4. Service of the Accusation and Petition to Revoke Probation was effective
12 as a matter of law under the provisions of Government Code section 11505, subdivision (c).

13 5. On or about March 28, 2002, the aforementioned documents were returned
14 by the U.S. Postal Service marked "Moved Left No Address, Unable to Forward, Return to
15 Sender." A copy of the postal returned documents are attached hereto as exhibit B, and are
16 incorporated herein by reference.

17 6. Government Code section 11506 states, in pertinent part:

18 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
19 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
20 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
21 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

22 7. Respondent failed to file a Notice of Defense within 15 days after service
23 upon her of the Accusation and Petition to Revoke Probation, and therefore waived her right to a
24 hearing on the merits of Accusation and Petition to Revoke Probation No. 98-42.

25 8. California Government Code section 11520 states, in pertinent part:

26 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing,
27 the agency may take action based upon the respondent's express admissions or upon other
28 evidence and affidavits may be used as evidence without any notice to respondent."

1 9. Pursuant to its authority under Government Code section 11520, the Board
2 finds Respondent is in default. The Board will take action without further hearing and, based on
3 Respondent's express admissions by way of default and the evidence before it, contained in
4 exhibits A and B, finds that the allegations in Accusation and Petition to Revoke Probation No.
5 98-42 are true.

6 10. The total costs for investigation and enforcement are \$1,672.75 as of
7 June 23, 2002.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent aka, Carolyn Gay
10 Rush, aka Carrie Vernon, aka Carolyn Gay Vernon, aka, Carrie Gay Vernon Rush, aka Carolyn
11 Gay Vernon Rush, has subjected her Registered Nurse License No. 465165 to discipline.

12 2. A copy of the Accusation and Petition to Revoke Probation and the related
13 documents and Declaration of Service are attached.

14 3. The agency has jurisdiction to adjudicate this case by default.

15 4. The Board of Registered Nursing is authorized to revoke Respondent's
16 Registered Nurse License based upon the following violations alleged in the Accusation and
17 Petition to Revoke Probation:

18 a. Business and Professions Code section 2761(a), in that Respondent
19 possessed and administered to herself an unknown amount of phentermine, a controlled
20 substance, in violation of Health and Safety Code section 11377(a).

21 b. Respondent failed to comply with Probation Condition 1, in that
22 she failed to obey all rules and regulations by possessing and self-administering
23 phentermine, a controlled substance.

24 c. Respondent failed to comply with Probation Condition 3, in that
25 she failed to appear at scheduled probation interviews/meetings.

26 d. Respondent failed to comply with Probation Condition 5, in that
27 she failed to submit required written reports, declarations, and verifications of actions.

28 ///

1 e. Respondent failed to comply with Probation Condition 10, in that
2 she failed to complete required nursing courses.

3 f. Respondent failed to comply with Probation Condition 12, in that
4 she failed to submit signed and dated SGA forms confirming her attendance at weekly
5 nurse support group meetings.

6 g. Respondent failed to comply with Probation Condition 13, in that
7 she failed to abstain from the possession, injection, or consumption of all psychotropic
8 drugs when she tested positive for phentermine, a controlled substance.

9 h. Respondent failed to comply with Probation Condition 14, in that
10 she failed to participate in random, biological fluid or drug testing by submitting
11 abnormally dilute urine specimens.

12 i. Respondent failed to comply with Probation Condition 17, in that
13 she failed to pay the Board \$7,417.50 of costs set forth in her signed and approved Cost
14 Recovery Payment Plan.

15 j. Respondent failed to comply with Probation Condition 2, in that
16 she failed to fully comply with the terms and conditions of her probation program and
17 cooperate with the Board, as set forth in paragraphs (a)-(i), above.

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019

ORDER

IT IS SO ORDERED that Registered Nurse License No. 465165, heretofore issued to Respondent Carrie Rush, aka, Carolyn Gay Rush, aka Carrie Vernon, aka Carolyn Gay Vernon, aka, Carrie Gay Vernon Rush, aka Carolyn Gay Vernon Rush, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on September 12, 2002

It is so ORDERED August 13, 2002

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Accusation and Petition to Revoke Probation No.98-42, Related Documents, and Declaration of Service

Exhibit B: Postal Return Documents

DOJ docket number:03579110-LA2001AD1912

prepared by cak

Exhibit A

Accusation and Petition to Revoke Probation No. 98-42,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 GLYNDA B. GOMEZ, State Bar No. 143448
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2542
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant and Petitioner

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 98-42

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

12 CARRIE RUSH, aka
13 CAROLYN GAY RUSH, aka
CARRIE VERNON, aka
14 CARRIE GAY VERNON, aka
CAROLYN GAY VERNON, aka
15 CARRIE GAY VERNON RUSH, and
CAROLYN GAY VERNON RUSH
16 520 East Magnolia Blvd., Apt. M
Burbank, California 91501
17 Registered Nurse License No. 465165

18 Respondent.

19
20 Complainant and Petitioner alleges:

21 **PARTIES**

- 22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant and Petitioner) brings this
23 Accusation and Petition to Revoke Probation solely in her official capacity as the Executive
24 Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.
- 25 2. On or about March 31, 1991, the Board issued registered nurse license
26 number 465165 to Carrie Rush, also known as Carolyn Gay Rush, Carrie Vernon, Carrie Gay
27 Vernon, Carolyn Gay Vernon, Carrie Gay Vernon Rush, and Carolyn Gay Vernon Rush
28 (Respondent). The license will expire on July 31, 2002, unless renewed.

PROBATIONARY TERMS

3. On March 12, 1999, pursuant to the Decision adopted by the Board in the disciplinary action entitled *In the Matter of the Accusation Against Carrie Rush, etc., et al.*, Case Number 98-42, the Board ordered that Respondent's license be revoked effective April 11, 1999. The revocation was stayed and Respondent was placed on probation for five (5) years subject to certain terms and conditions including the following:

a. Condition 1 states, in pertinent part, that Respondent shall obey all rules and regulations of the Board governing the practice of nursing in California.

b. Condition 2 states, in pertinent part, that Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Program.

c. Condition 3 states that Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

d. Condition 5 states, in pertinent part, that Respondent, during the period of probation, shall submit such written reports/declarations and verification of actions under penalty of perjury as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program.

e. Condition 10 states, in pertinent part, that Respondent at her expense, shall begin and successfully complete a course or courses in nursing as directed by the Board prior to engaging in the practice of nursing and prior to the end of the probationary term. The Respondent must submit written proof of enrollment and proof of successful completion and transcripts or certificates of completion must be mailed directly to the Board by the agency or entity instructing the Respondent.

f. Condition 12 states, in pertinent part, that Respondent must attend two 12-step recovery meetings per week (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as directed by the Board. If a nurse support group is not available, an

1 additional 12-step meeting must be added. Respondent must submit dated and signed
2 documentation confirming such attendance to the Board during the entire period of probation.

3 g. Condition 13 states that Respondent shall completely abstain from the
4 possession, injection or consumption by any route of all psychotropic (mood altering) drugs,
5 including alcohol, except when the same are lawfully prescribed by a licensed physician or
6 dentist as part of documented medical treatment. Respondent shall have sent to the Board, in
7 writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying
8 the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, and
9 the date the medication will no longer be required.

10 h. Condition 14 states, in pertinent part, that Respondent, at her expense,
11 shall participate in a random, biological fluid testing or a drug screening program which the
12 Board approves. The length of time and frequency will be subject to approval by the Board.
13 Any confirmed positive finding shall be reported immediately to the Board by the program and
14 the Respondent will be considered in violation of probation.

15 i. Condition 17 states that Respondent shall pay the Board \$8,183.50 as and
16 for the reasonable costs of the investigation and prosecution of Case (OAH) No.
17 L-1998080033. Respondent shall make such payment in a lump sum or by a plan approved by
18 the Board. Respondent shall submit said plan to the Board within 60 days of the effective date of
19 this decision. Payments must be completed prior to three months before the end of probation.
20 Should any part of cost recovery not be paid in accordance with the outlined payment schedule,
21 respondent shall be considered in violation of probation.

22 STATUTORY PROVISIONS

23 4. Section 2750 of the Business and Professions Code (Code) provides, in
24 pertinent part, that the Board may discipline any licensee, including a licensee holding a
25 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
26 2750) of the Nursing Practice Act.

27 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
28 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding

1 against the licensee or to render a decision imposing discipline on the license. Under section
2 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
3 the expiration.

4 6. Section 2761(a) of the Code states that the board may take disciplinary
5 action against a certified or licensed nurse or deny an application for a certificate or license for
6 unprofessional conduct.

7 7. Section 2762(a) of the Code states that in addition to other acts
8 constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice
9 Act], it is unprofessional conduct for a person licensed under this chapter to obtain or possess in
10 violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist,
11 or podiatrist administer to himself or herself, or furnish or administer to another, any controlled
12 substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety
13 Code or any dangerous drug or dangerous device as defined in Section 4022.

14 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
15 request the administrative law judge to direct a licentiate found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 9. Drugs

19 "Phentermine," is a Schedule IV controlled substance as designated by Health and
20 Safety Code section 11057(f)(2).

21 CAUSES FOR DISCIPLINE

22 (Possession and Self-Administration of a Controlled Substance)

23 10. Respondent is subject to disciplinary action under Code section 2761(a) on
24 the grounds of unprofessional conduct, as defined by section 2762(a) of that code, in the
25 following respects:

26 a. On or about December 1, 1999, while licensed as a registered nurse,
27 Respondent possessed an unknown quantity of phentermine, a controlled substance, in violation
28 of Health and Safety Code section 11377(a).

1 b. On or about December 1, 1999, while licensed as a registered nurse,
2 Respondent self-administered an unknown quantity of phentermine, a controlled substance.

3 **CAUSES TO REVOKE PROBATION**

4 11. Complainant and Petitioner realleges and incorporates herein by reference
5 as if fully set forth the allegations contained in paragraphs 1 through 10 of the Accusation.

6 12. Grounds exist to revoke Respondent's probation and reimpose the order of
7 revocation in that Respondent has failed to comply with the conditions of her probation in the
8 following respects:

9 a. Respondent has failed to obey all rules and regulations of the Board as set
10 forth in paragraph 10 above (Condition 1).

11 b. Respondent failed to appear at her probation interviews/meetings
12 scheduled for October 21, 1999, August 16, 2000, October 24, 2000, January 23, 2001, and
13 May 16, 2001, as directed by the Board's representatives (Condition 3).

14 c. Respondent has failed to submit various written reports/declarations and
15 verifications of actions under penalty of perjury as required by the Board's representatives
16 including dated and signed documentation confirming her attendance at weekly nurse support
17 group meetings as set forth in subparagraph 12(e) below (Condition 5).

18 d. Respondent has failed to complete various courses in nursing as directed
19 by the Board's representatives including 6 contact hours in Professional Ethics and 2 contact
20 hours in Delegation of functions/tasks (Condition 10).

21 e. Respondent has failed to submit dated and signed documentation (SGA
22 Forms) confirming her attendance at weekly nurse support group meetings for the time periods
23 from April 1999, to January 2000, and May 15, 2000, to the present (Condition 12).

24 f. Respondent failed to completely abstain from the possession, injection, or
25 consumption by any route of all psychotropic (mood altering) drugs when she tested positive for
26 phentermine, a controlled substance, after submitting to a random, biological fluid test or drug
27 screen on December 1, 1999 (Condition 13).

28

1 g. Respondent failed to participate in random, biological fluid testing or drug
2 screens as directed by the Board's representatives when she submitted abnormally dilute urine
3 specimens at her biological fluid testing or drug screens scheduled on July 20, 1999, and March
4 29, 2000 (Condition 14).

5 h. Respondent has failed to pay the Board \$7,417.50 of the costs set forth
6 in her Cost Recovery Payment Plan signed and approved by the Board on July 19, 1999
7 (Condition 17).

8 i. Respondent has failed to fully comply with the terms and conditions of her
9 probation program and cooperate with the Board's representatives in their monitoring and
10 investigation of Respondent's compliance with the program as set forth in subparagraphs (a)
11 through (h) above (Condition 2).

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein
14 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 465165, issued
16 to Carrie Rush, also known as Carolyn Gay Rush, Carrie Vernon, Carrie Gay Vernon, Carolyn
17 Gay Vernon, Carrie Gay Vernon Rush, and Carolyn Gay Vernon Rush;

18 2. Ordering Carrie Rush, also known as Carolyn Gay Rush, Carrie Vernon,
19 Carrie Gay Vernon, Carolyn Gay Vernon, Carrie Gay Vernon Rush, and Carolyn Gay Vernon
20 Rush to pay the Board of Registered Nursing the reasonable costs of the investigation and
21 enforcement of this case, pursuant to Business and Professions Code section 125.3;

22 3. Revoking probation and reimposing the order of revocation of Registered
23 Nurse License Number 465165, issued to Carrie Rush, also known as Carolyn Gay Rush, Carrie
24 Vernon, Carrie Gay Vernon, Carolyn Gay Vernon, Carrie Gay Vernon Rush, and Carolyn Gay
25 Vernon Rush;

26 ///

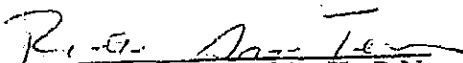
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4 Taking such other and further action as deemed necessary and proper.

DATED: 3/1/02


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

Case No. 98-42

OAH No. L1998080033

CARRIE RUSH, aka CAROLYN)
GAY RUSH, CARRIE VERNON,)
CARRIE GAY VERNON,)
CAROLYN GAY VERNON,)
CARRIE GAY VERNON RUSH,)
and CAROLYN GAY VERNON)
RUSH)

10970 Bluffside Drive, #6)
Studio City, California 91604)
and/or)

25515 Langston Street)
Valencia, California 91355)

Registered Nurse License)
No. 465165,)

Respondent.)

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted
by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on April 11, 1999

IT IS SO ORDERED March 12, 1999

OAH 15 (Rev. 6/84)

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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	Case No. 98-42
Against:)	
)	OAH No. L-1998080033
CARRIE RUSH, aka CAROLYN)	
GAY RUSH, CARRIE VERNON,)	
CARRIE GAY VERNON,)	
CAROLYN GAY VERNON,)	
CARRIE GAY VERNON RUSH,)	
and CAROLYN GAY VERNON)	
RUSH)	
10970 Bluffside Drive, #6)	
Studio City, California 91604)	
and/or)	
25515 Langston Street)	
Valencia, California 91355)	
)	
Registered Nurse License)	
No. 465165,)	
)	
Respondent.)	

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on October 14, 1998.

Susan Melton Wilson, Deputy Attorney General, represented the complainant.

Respondent appeared in person and was represented by Richard Grey, Attorney at Law.

Oral and documentary evidence and evidence by way of stipulation and official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, determines, and orders as follows:

PARTIES AND JURISDICTION

1

Complainant Ruth Ann Terry, filed the accusation in her official capacity as Executive Officer, Board of Registered Nursing, Department of Consumer Affairs.

2

On March 31, 1991, the Board of Registered Nursing issued registered nurse license number 465165 to Carrie Rush, also known as Carolyn Gay Rush, Carrie Vernon, Carrie Gay Vernon, Caroloyne Gah Vernon, Carrie Gay Vernon Rush, and Carolyn Gay Vernon Rush. The license is presently in full force and effect.

3

All prehearing jurisdictional requirements have been met. Jurisdiction for this proceeding does exist.

COMBINED FINDINGS OF FACT/ CONCLUSIONS OF LAW RE: ACCUSATION

4

Respondent has subjected her license to discipline under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined by section 2762(a) of that Code, in that during the period from in or about December 1994 through on or about February 2, 1995, while employed as a registered nurse at the Henry Mayo Newhall Memorial Hospital in Valencia, California, and by her own admission, she committed the following acts:

(A) Obtained an unknown quantity of Percocet tablets, Vicodin tablets, and Vicodin ES tablets by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) by signing out the Percocet, Vicodin, and Vicodin ES from the hospital supply for her own personal use.

(B) Possessed an unknown quantity of Percocet tablets, Vicodin tablets, and Vicodin ES tablets without a valid prescription therefor in violation of Business and Professions Code section 4060 (formerly section 4230).

(C) Self-administered an unknown quantity of Percocet tablets, Vicodin tablets, and Vicodin ES tablets without a valid prescription therefor in violation of Health and Safety Code section 11170.

Patient Jose P.

(D) Obtained, by her own admission, one of two Percocet tablets signed out to patient Jose P. on January 30, 1995 at 3:30 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Percocet for her own use.

(E) Obtained, by her own admission, one of two Percocet tablets signed out to patient Jose P. on January 30, 1995 at 6:50 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Percocet for her own use.

(F) Possessed, by her own admission, one of two Percocet tablets signed out to patient Jose P. on January 30, 1995 at 3:30 p.m. without a valid prescription therefor in violation of Business and Professions Code section 4060 (formerly section 4230).

(G) Possessed, by her own admission, one of two Percocet tablets signed out to patient Jose P. on January 30, 1995 at 6:50 p.m. without a valid prescription therefor in violation of Business and Professions Code section 4060 (formerly section 4230).

(H) Self-administered, by her own admission, one of two Percocet tablets signed out to patient Jose P. on January 30, 1995 at 3:30 p.m. without a valid prescription therefor in violation of Health and Safety Code section 11170.

(I) Self-administered, by her own admission, one of two Percocet tablets signed out to patient Jose P. on January 30, 1995 at 6:50 p.m. without a valid prescription therefor in violation of Health and Safety Code section 11170.

Patient Lois D.

(J) Obtained, by her own admission, one of two Percocet tablets signed out to patient Lois D. on January 9, 1995 at 8:00 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Percocet for her own use.

(K) Possessed, by her own admission, one of two Percocet tablets signed out to patient Lois D. on January 9, 1995 at 8:00 p.m. without a valid prescription therefor in violation of Business and Professions Code section 4060 (formerly section 4230).

(L) Self-administered, by her own admission, one of two Percocet tablets signed out to patient Lois D. on January 9, 1995 at 8:00 p.m. without a valid prescription therefor in violation of Health and Safety Code section 11170.

Patient Virgil H.

(M) Obtained, by her own admission, one-half of two Vicodin tablets signed out to patient Virgil H. on January 23, 1995 at 3:45 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Vicodin for her own use.

(N) Obtained, by her own admission, one-half of two Vicodin tablets signed out to patient Virgil H. on January 23, 1995 at 10:10 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Vicodin for her own use.

(O) Obtained, by her own admission, one-half of two Vicodin ES tablets signed out to patient Virgil H. on January 24, 1995 at 11:25 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Vicodin ES for her own use.

(P) Possessed, by her own admission, one-half of two Vicodin tablets signed out to patient Virgil H. on January 23, 1995 at 3:45 p.m. without a valid prescription therefor in violation of Business and Professions Code 4060 (formerly section 4230).

(Q) Possessed, by her own admission, one-half of two Vicodin tablets signed out to patient Virgil H. on January 23, 1995 at 10:10 p.m. without a valid prescription therefor in violation of Business and Professions Code section 4060 (formerly section 4230).

(R) Possessed, by her own admission, one-half of two Vicodin ES tablets signed out to patient Virgil H. on January 24, 1995 at 11:25 p.m. without a valid prescription therefor in violation of Business and Professions Code section 4060 (formerly section 4230).

(S) Self-administered, by her own admission, one-half Vicodin tablet signed out to patient Virgil H. on January 23, 1995, at 3:45 p.m. without a valid prescription therefor in violation of Health and Safety Code section 11170.

(T) Self-administered, by her own admission, one-half of two Vicodin tablets signed out to patient Virgil H., on January 23, 1995, at 10:10 p.m., without a valid prescription therefor in violation of Health and Safety Code section 11170.

(U) Self-administered, by her own admission, one-half of two Vicodin ES tablets signed out to patient Virgil H., on January 24, 1995, at 11:25 p.m., without a valid prescription therefor in violation of Health and Safety Code section 11170.

Patient Donn M.

(V) Obtained, by her own admission, one and one-half of two Vicodin ES tablets signed out to patient Donn M. on January 30, 1995, at 9:15 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Vicodin ES for her own use.

(W) Possessed, by her own admission, one and one-half of two Vicodin ES tablets signed out to patient Donn M., on January 30, 1995, at 9:15 p.m., without a valid prescription therefor in violation of Business and Professions Code section 4060 (formerly section 4230).

(X) Self-administered, by her own admission, one and one-half of two Vicodin ES tablets signed out to patient Donn M., on January 30, 1995, at 9:15 p.m., without a valid prescription therefor in violation of Health and Safety Code section 11170.

5

Respondent has subjected her license to discipline under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined in section 2762(e) of that code, in that while on duty as a registered nurse at the Henry Mayo Newhall Memorial Hospital in Valencia, California, she falsified, made grossly incorrect, and grossly inconsistent entries in hospital and patient records in the following respects:

Patient Jose P. (Patient Record No. 0302772-0401834)

(A) On January 30, 1995, at 3:30 p.m., respondent signed out on Controlled Substance Administration Record No. 54020, two Percocet tablets (contrary to physician orders for one Percocet tablet orally every three hours as needed for pain). Respondent charted administration of one Percocet tablet on the patient's Medication Administration Record, and on that record, failed to account for the remaining tablet. Respondent failed to chart the disposition of the Vicodin tablets in the patient's nursing notes.

(B) On January 30, 1995, at 6:50 p.m., respondent signed out on Controlled Substance Administration Record No. 54020 two Percocet tablets for patient Jose P., but charted the administration of the Percocet on the patient's medication administration record as having been administered at 6:55 p.m.

(C) On January 30, 1995, at 6:50 p.m., respondent signed out on Controlled substance Administration Record No. 54020, two Percocet tablets (contrary to physician orders for one Percocet tablet orally every three hours as needed for pain), charted administration of one Percocet tablet on the patient's Medication Administration Record, and on that record, failed to account for the remaining tablet. Respondent failed to chart the disposition of the Percocet tablets in the patient's nursing notes.

(D) On or about January 30, 1995, respondent failed to completed medication error forms to document that, on two separate occasions, she administered two Percocet tablets instead of one Percocet tablet to the patient.

Patient Lois D. (Patient Record No. 0040722-0401095)

(E) On January 9, 1995, at 8:00 p.m., respondent signed out on Controlled Substance Administration Record No. 53614, two Percocet tablets (contrary to physician orders for one Percocet tablet orally every three to four hours as needed for pain), and failed to chart the administration of two Percocet tablets on the patient's Medication Administration Record, or otherwise account for the two Percocet tablets.

Patient Virgil H. (Patient Record No. 0153212-0401463)

(F) On January 23, 1995, at 3:45 p.m., respondent signed out on Controlled Substance Administration Record No. 53898, two Vicodin tablets, charted administration of one and one-half tablets to the patient, and charted one-half Vicodin tablet as being wasted, but failed to chart the administration of the Vicodin tablets in the patient's nursing notes.

(G) On January 23, 1995, at 10:10 p.m., respondent failed to obtain a co-signature from a witness to the wastage of the one-half Vicodin tablet which had been signed out on Controlled Substance Administration Record No. 53898.

(H) On January 23, 1995, at 10:10 p.m., respondent signed out on Controlled Substance Administration Record No. 53898 two Vicodin tablets for patient Virgil H., but charted the administration of Vicodin on the patient's medication administration record as having been administered at 10:15 p.m.

(I) On January 24, 1995, at 11:25 p.m., respondent signed out on Controlled Substance Administration Record No. 53919, two Vicodin tablets, charted administration of one and one-half tablets to the patient, and charted one-half Vicodin tablet as being wasted, but failed to chart the administration of the Vicodin tablets in the patient's nursing notes.

Patient Donn M. (Patient Record No. 0302792-0401849)

(J) On January 30, 1995, at 9:15 p.m., respondent made an unintelligible entry on Controlled Substance Administration Record No. 54020 concerning the number of Vicodin tablets administered.

(K) On January 30, 1995, at 9:15 p.m., respondent made an unintelligible entry on Controlled Substance Administration Record No. 54020 concerning the number of Vicodin tablets wasted.

(L) On January 30, 1995, at 9:15 p.m., respondent did not annotate on the Medication Administration Record the number of Vicodin tablets administered.

6

Respondent has subjected her license to discipline under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined by section 2762(c) of that code, in that on or about April 29, 1996, she was convicted by the court on her plea of nolo contendere in the Los Angeles County, Newhall Judicial District Municipal Court (*People v. Carolyn Gay Vernon*, Case No. 6NE00561) to a violation of Health and Safety Code section 11173(b) (false statements) having made false statements, on and between December 1, 1994 and February 2, 1995, in a prescription, order, report or record.

7

Respondent has subjected her license to discipline under Business and Professions Code section 2761(f) in that she was convicted of the offense, as set forth in Finding/Conclusion 6, which is substantially related to the qualifications, functions and duties of a registered nurse, within the meaning of Title 16, California Code of Regulations, section 1444, in that it evidences a present or potential unfitness on the part of respondent to perform the functions of a registered nurse in a manner consistent with the public health, safety, or welfare.

8

Respondent has subjected her license to discipline under Business and Professions Code section 490 in that she was convicted of a crime substantially related to the qualifications, functions, or duties of a registered nurse, as set forth in Findings/Conclusions 6 and 7.

9

Respondent has subjected her license to discipline under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, in that while on duty as a registered nurse at the Henry Mayo Newhall Memorial Hospital in Valencia, California, she did the following:

(A) Permitted a Certified Nursing Assistant (CNA) to mix Demerol and Viosterol, a procedure outside the scope of the practice of a CNA.

(B) Signed the narcotic medication sheet falsifying she was the licensed nurse who prepared the Vistaril and Demerol mixture, when she was not.

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(C) Administered the Vistaril and Demerol mixture (which the CNA prepared) to a patient, even though respondent did not witness the preparation or technique of the mixture.

10

Respondent has subjected her license to discipline under Business and Professions Code section 2761(d) in that she failed to report to the Board her change of address from 10970 Bluffside Dr., #6, Studio City, California to 25515 Langston St., Valencia, California, within 30 days, as required by Title 16, California Code of Regulations, section 1409.1.

FINDINGS OF FACT
IN
THE PUBLIC INTEREST

REHABILITATION

Approximately 3 years have past since the last of the conduct set forth in the Findings/Conclusions occurred. In that time respondent has engaged in certain but limited rehabilitative conduct:

(A) She has been employed by, Elite Home Healthcare, Home Health of the Valley and presently at Coram Healthcare, providing competent health care to residents.

(B) As a result of the conviction she completed community service in August, 1997 and has complied with other terms of a 3 year formal probation including random drug testing. Weighed against that ultimate compliance respondent did serve 10 days at Sybil Brand for a violation of said probation (alcohol abuse).

(C) Respondent did enroll in and attend, at Safety Education Center, 18 "group" hours of therapy, 1 hour of individual counseling and 18 hours of certain substance (alcohol) abuse counseling. There was no documentation of same. The counseling, however, was court-ordered and related to a 1996 DUI (driving under the influence of alcohol) arrest and conviction and not to the conduct set forth herein. There is no other documentation as to counseling or therapy.

(D) Respondent understands, now, the gravity of her conduct and is contrite about same.

Given the recency of said conduct set forth in the Findings/Conclusions and the severity of that conduct a sustained period of clear and convincing rehabilitation, and documentation of same, is necessary to allow respondent to continue licensure in an unrestricted status. The rehabilitation found herein is but a start toward a sustained period of clear and convincing rehabilitation. Respondent, presently, is not participating in any alcoholic abuse or drug abuse treatment or counseling.

MITIGATION

At or about the time of the conduct set forth in the Findings/Conclusions respondent was undergoing personal and physical problems: she was married, trying to have a child and thereafter determined, medically, to be infertile. During that time she was suffering from physical pain in addition to the knowledge ("mental pain") of an inability to become pregnant. From time to time she used Vicodin and Percocet to relieve the pain. She underwent a number of medical procedures without success, and suffered two miscarriages. Surgical procedures in 1997 have eliminated pain and have eliminated the ability to become pregnant. At present respondent is mentally and physically sound.

SPECIAL RULINGS

RE:

COSTS

(A) California Business and Professions Code (BPC) section 125.3 provides, with respect to any agency within the Department of Consumer Affairs, that:

"... the board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable cost of the investigation and enforcement of the case."

BPC section 125.3(c) provides:

"(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigation and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General."

(B) Consistent with said statute the Board certifies total costs for investigation investigative services and prosecution (Attorney General Fees) as follows:

1. Investigative services from the Division of Investigation 56.25 hours at \$ 91.00 per hour. \$5,118.00
2. Expert witness opinion costs \$ 770.00
3. Deputy Attorney General's cost: \$2,415.50

<u>Fiscal Year</u>	<u>No. of Hours</u>	<u>x</u>	<u>Hourly Rate</u>	<u>=</u>	<u>Total Charge</u>
98/99	14.25		\$100		\$1,425
97/98	5.25		\$100		\$ 525
96/97	4.75		\$ 98		\$ 465.50

Paralegal costs: \$ 650.00

<u>Fiscal Year</u>	<u>No. of Hours</u>	<u>x</u>	<u>Hourly Rate</u>	<u>=</u>	<u>Total Charge</u>
--------------------	---------------------	----------	--------------------	----------	---------------------

Total costs incurred through September 27, 1998. \$8,953.50

(C) Related investigation was routine in nature and, as revealed by the evidence at hearing, was, thorough. Accordingly, the sum - for investigation - of \$5,118.00 is here determined to be reasonable.

(D) Cases involving drug abuse require detailed preparation. Accordingly, the sum - for prosecution - of \$2,415.50 is hereby determined to be routine and reasonable.

(E) The other item certified - expert witness costs - are not specifically covered by statute and is therefore, not recoverable.

(F) Said total recoverable sum under BPC section 125.3 is, therefore \$8,183.50.

DETERMINATION OF ISSUES

1

(A) Pursuant to Business and Professions Code (BPC) section 2750, the Board of Registered Nursing may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 of the Nursing Practice Act.

(B) Pursuant to BPC section 2764, the expiration of a license shall not deprive the board of jurisdiction to proceed with a disciplinary proceeding against the license or to render a decision imposing discipline on the license.

2

Pursuant to BPC section 490, the Board of Registered Nursing may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of a registered nurse.

3

Pursuant to BPC section 125.3, the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

4

Cause exists for discipline of respondent's license for motion of the Business and Professions Code (BPC) as follows:

(A) BPC sections 2761(a) and 2762(a) by reason of Finding/Conclusion 4.

(B) BPC section 2761(a) and 2762(e) by reason of Finding/Conclusion 5.

(C) BPC section 2761(a) and 2762(c) by reason of Finding/Conclusion 6.

(D) BPC section 2761(f) by reason of Finding/Conclusion 7.

(E) BPC section 490 by reason of Finding/Conclusion 8.

(F) BPC section 2761(a) by reason of Finding/Conclusion 9.

(G) BPC section 2761(d) by reason of Finding/Conclusion 10.

5

Cause exists for an order of costs in the amount of \$8,183.50 by reason of the Special Ruling.

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The objective of an administrative proceeding relating to discipline, if any, is to protect the public; to determine whether a license holder has exercised her privilege in derogation of the public interest. Such proceedings are not for the primary purpose of punishment: Fahmy v. BMC (1995) 38 Cal.App. 4th 810, 817; Ex Parte Brounsell (1778) 2 Cowp. 829, 98 Eng. Rep. 1385. Weighing the violations set forth in Determination 4 with Findings 12 and 13, the order which follows is consistent with the public interest.

ORDER

License number 465165 heretofore issued to respondent Carrie Rush is hereby revoked, with said revocation stayed and respondent is placed on probation to the Board for a period of five (5) years subject to the following terms and conditions:

1. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, and all rules, and regulations of the Board of Registered Nursing governing the practice of nursing in California. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

2. COMPLY WITH PROBATION PROGRAM. Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Program. Respondent shall inform the Board in writing within no more than 15 days of any change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

3. REPORT IN PERSON. Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. ABSENCE FROM STATE. Periods of residency or practice outside of California will not apply to the reduction of this probationary term. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

5. SUBMIT WRITTEN REPORTS. Respondent, during the period of probation, shall submit such written reports/declarations and verification of actions under penalty of perjury as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

6. FUNCTION AS A REGISTERED NURSE. Respondent, during the period of probation, shall engage in the practice of professional nursing in California for a minimum of 24 hours per week (or as determined by the Board) for 6 consecutive months. Per section 2732 of the Business and Professions Code, no person shall engage in the practice of registered nursing without holding a license which is in an active status.

7. NURSING PRACTICE. The Board shall be informed of and approve of each agency for which the respondent provides nursing services prior to respondent's commencement of work. The respondent shall inform her employer of the reason for and the terms and conditions of probation and shall provide a copy of the Board's decision and order to her employer and immediate supervisor. The employer shall submit performance evaluations and other reports as requested by the Board. Respondent is also required to notify the Board in writing within seventy-two (72) hours after termination of any nursing employment. Any notification of termination shall contain a full explanation of the circumstances surrounding it.

8. SUPERVISION. The Board shall be informed of and approve of the level of supervision provided to the respondent while she is functioning as a registered nurse. The appropriate level of supervision must be approved by the Board prior to commencement of work. Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing.

9. EMPLOYMENT LIMITATIONS. Respondent may not work for a nurse registry; temporary nurse agency; home care agency; in-house nursing pool; as a nursing supervisor; as a faculty member in an approved school of nursing; or as an instructor in a Board approved continuing education program. Respondent must work only on regularly assigned, identified and predetermined worksite(s) with appropriate supervision as approved by the Board.

10. COMPLETE A NURSING COURSE(S). Respondent at her expense, shall begin and successfully complete a course or courses in nursing as directed by the Board prior to engaging in the practice of nursing and prior to the end of the probationary term.

The respondent may be suspended from practicing nursing until the necessary coursework is completed. The content of such course(s) and the place and conditions of instruction shall be specified by Board representatives at the time of the initial probation meeting based on the nature of the violation(s). Specific courses must be approved prior to enrollment. The respondent must submit written proof of enrollment and proof of successful completion. Transcripts or certificates of completion must be mailed directly to the Board by the agency or entity instructing the respondent.

Home study or correspondence courses are not acceptable and will not be approved.

11. PHYSICAL EXAMINATION. Respondent, at her expense, within 45 days of the effective date of this decision, shall have a licensed physician submit, in a format acceptable to the Board, an assessment of the respondent's physical condition and capability to perform the duties of a professional registered nurse. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician providing written reports to the Board on forms provided by the Board.

12. PARTICIPATE IN REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE. Respondent, at her expense, shall successfully complete or shall have successfully completed a treatment/rehabilitation program of at least six months duration which the Board approves. Reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a treatment program prior to commencement of probation, the respondent, within a reasonable period of time as determined by the Board (but not exceeding 45 days from the effective date of the decision) shall be enrolled in a treatment program. If a treatment program is not successfully completed within the first nine months of probation, the Board will consider the respondent to be in violation of probation and will initiate further disciplinary action against the respondent's license.

In addition, respondent must attend two 12-step recovery meetings per week (e.g., Narcotics Anonymous, Alcoholic Anonymous, etc.) and a nurse support group as directed by the Board. If a nurse support group is not available, an additional 12-step meeting must be added. Respondent must submit dated and signed documentation confirming such attendance to the Board during the entire period of probation.

13. ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS. Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are lawfully prescribed by a licensed physician or dentist as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, and the date the medication will no longer be required.

14. SUBMIT TO TESTS AND SAMPLES. Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times and for ensuring that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent will be considered in violation of probation.

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In addition, respondent, at any time during the period of probation shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

15. MENTAL HEALTH EXAMINATION. The respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

16. THERAPY OR COUNSELING PROGRAM. Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

17. Respondent shall pay the Board \$8,183.50 as and for the reasonable costs of the investigation and prosecution of this matter, Case No. L-1998080033. Respondent shall make such payment in a lump sum or by a plan approved by the Board. Respondent shall submit said plan to the Board within 60 days of the effective date of this decision. Payments must be completed prior to three months of the end of probation. Respondent shall make any check or money order payable to the Board of Registered Nursing and shall indicate on the check or money order that it is the cost recovery payment for said case. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, respondent shall be considered to be in violation of probation.

If during the period of probation an accusation or petition to revoke probation has been filed against respondent's license or a request has been made by the Board for the preparation of an accusation against respondent's license, such period shall automatically be extended and shall not expire until the accusation has been acted upon by the Board.

Should respondent violate any of the above terms and conditions of probation then the Board, after providing respondent with notice and an opportunity to be heard, may terminate probation and reimpose the order of revocation effective immediately or take such other action modifying or changing the terms and conditions as the Board deems just and reasonable in its discretion.

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Should respondent comply with all of said terms and conditions, then at the end of the five (5) year period of probation, respondent's license shall be fully restored.

Dated: 5 November 1998



RICHARD J. LOPEZ

Administrative Law Judge

Office of Administrative Hearings

RJL:rfm

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 SUSAN MELTON WILSON, State Bar No. 106092
Deputy Attorney General
3 300 South Spring Street, Suite 500
Los Angeles, California 90013
4 Telephone: (213) 897-4942
5 Attorneys for Complainant

6
7
8 BEFORE THE
9 BOARD OF REGISTERED NURSING
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation)
Against:)

NO. 98-42

13 CARRIE RUSH, aka CAROLYN GAY RUSH,)
14 CARRIE VERNON, CARRIE GAY VERNON,)
CAROLYN GAY VERNON, CARRIE GAY VERNON)
15 RUSH, and CAROLYN GAY VERNON RUSH)
10970 Bluffside Dr., #6)
16 Studio City, California 91604)
and/or)
25515 Langston St.)
17 Valencia, California 91355)
Registered Nurse License No. 465165)

ACCUSATION

18 Respondent.)
19

20 Ruth Ann Terry, M.P.H., R.N., for causes for
21 discipline, alleges:

22
23 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and
24 files this accusation in her official capacity as Executive
25 Officer, Board of Registered Nursing, Department of Consumer
26 Affairs.

27 / / /

1 2. On March 31, 1991, the Board of Registered Nursing
2 issued registered nurse license number 465165 to Carrie Rush,
3 also known as Carolyn Gay Rush, Carrie Vernon, Carrie Gay Vernon,
4 Carolyn Gay Vernon, Carrie Gay Vernon Rush, and Carolyn Gay
5 Vernon Rush. The license was in full force and effect at all
6 times pertinent herein and has been renewed through July 31,
7 1998.

8
9 3. Under Business and Professions Code section 2750,
10 the Board of Registered Nursing may discipline any licensee,
11 including a licensee holding a temporary or an inactive license,
12 for any reason provided in Article 3 of the Nursing Practice Act.

13 Under Business and Professions Code section 2764, the
14 expiration of a license shall not deprive the board of
15 jurisdiction to proceed with a disciplinary proceeding against
16 the license or to render a decision imposing discipline on the
17 license.

18 Under Business and Professions Code section 490, the
19 Board of Registered Nursing may suspend or revoke a license when
20 it finds that the licensee has been convicted of a crime
21 substantially related to the qualifications, functions, or duties
22 of a registered nurse.

23 Under Business and Professions Code section 125.3, the
24 Board may request the administrative law judge to direct a
25 licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs
27 of the investigation and enforcement of the case.

1 4. DRUGS

2 "Percocet," a combination drug containing 5 mg. of
3 oxycodone hydrochloride and acetaminophen, is a Schedule II
4 controlled substance as designated by Health and Safety Code
5 section 11055(b)(1)(N).

6 "Vicodin," a compound consisting of 5 mg. hydrocodone
7 bitartrate (also known as dihydrocodeinone) and 500 mg.
8 acetaminophen per tablet, is a Schedule III controlled substance
9 as designated by Health and Safety Code section 11056(e)(4); and
10 a dangerous drug within the meaning of Business and Professions
11 Code section 4022 (formerly 4211) in that it requires a
12 prescription under federal law.

13 "Vicodin ES (extra strength)," a compound consisting of
14 7.5 mg. hydrocodone bitartrate (also known as dihydrocodeinone)
15 and 750 mg. acetaminophen per tablet, is a Schedule III
16 controlled substance as designated by Health and Safety Code
17 section 11056(e)(4); and a dangerous drug within the meaning of
18 Business and Professions Code section 4022 (formerly 4211) in
19 that it requires a prescription under federal law.

20 A "controlled substance" is a drug or other substance
21 or immediate precursor included in Schedules I, II, III, IV, or V
22 of the Controlled Substances Act, Health and Safety Code sections
23 11054, 11055, 11056, 11057, and 11058.

24 Under Business and Professions Code section 4022
25 (formerly 4211), the term "dangerous drug" means a drug which
26 cannot be dispensed without a prescription under federal law.

27 / / /

1 5. Respondent has subjected her license to
2 discipline under Business and Professions Code section 2761(a) on
3 the grounds of unprofessional conduct, as defined by section
4 2762(a) of that code, in that during the period from in or about
5 December 1994 through on or about February 2, 1995, while
6 employed as a registered nurse at the Henry Mayo Newhall Memorial
7 Hospital in Valencia, California, and by her own admission, she
8 committed the following acts:

9 a. Obtained an unknown quantity of Percocet tablets,
10 Vicodin tablets, and Vicodin ES tablets by fraud, deceit,
11 misrepresentation, or subterfuge in violation of Health and
12 Safety Code section 11173(a) by signing out the Percocet,
13 Vicodin, and Vicodin ES from the hospital supply for her own
14 personal use.

15 b. Possessed an unknown quantity of Percocet tablets,
16 Vicodin tablets, and Vicodin ES tablets without a valid
17 prescription therefor in violation of Business and Professions
18 Code section 4060 (formerly section 4230).

19 c. Self-administered an unknown quantity of Percocet
20 tablets, Vicodin tablets, and Vicodin ES tablets without a valid
21 prescription therefor in violation of Health and Safety Code
22 section 11170.

23 Patient Jose P.

24 d. Obtained, by her own admission, one of two
25 Percocet tablets signed out to patient Jose P. on January 30,
26 1995 at 3:30 p.m. by fraud, deceit, misrepresentation, or

27 / / /

1 subterfuge in violation of Health and Safety Code section
2 11173(a) in that she obtained the Percocet for her own use.

3 e. Obtained, by her own admission, one of two
4 Percocet tablets signed out to patient Jose P. on January 30,
5 1995 at 6:50 p.m. by fraud, deceit, misrepresentation, or
6 subterfuge in violation of Health and Safety Code section
7 11173(a) in that she obtained the Percocet for her own use.

8 f. Possessed, by her own admission, one of two
9 Percocet tablets signed out to patient Jose P. on January 30,
10 1995 at 3:30 p.m. without a valid prescription therefor in
11 violation of Business and Professions Code section 4060 (formerly
12 section 4230).

13 g. Possessed, by her own admission, one of two
14 Percocet tablets signed out to patient Jose P. on January 30,
15 1995 at 6:50 p.m. without a valid prescription therefor in
16 violation of Business and Professions Code section 4060 (formerly
17 section 4230).

18 h. Self-administered, by her own admission, one of
19 two Percocet tablets signed out to patient Jose P. on January 30,
20 1995 at 3:30 p.m. without a valid prescription therefor in
21 violation of Health and Safety Code section 11170.

22 i. Self-administered, by her own admission, one of
23 two Percocet tablets signed out to patient Jose P. on January 30,
24 1995 at 6:50 p.m. without a valid prescription therefor in
25 violation of Health and Safety Code section 11170.

26 / / /

27 / / /

Patient Lois D.

j. Obtained, by her own admission, one of two Percocet tablets signed out to patient Lois D. on January 9, 1995 at 8:00 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Percocet for her own use.

k. Possessed, by her own admission, one of two Percocet tablets signed out to patient Lois D. on January 9, 1995 at 8:00 p.m. without a valid prescription therefor in violation of Business and Professions Code section 4060 (formerly section 4230).

l. Self-administered, by her own admission, one of two Percocet tablets signed out to patient Lois D. on January 9, 1995 at 8:00 p.m. without a valid prescription therefor in violation of Health and Safety Code section 11170.

Patient Virgil H.

m. Obtained, by her own admission, one-half of two Vicodin tablets signed out to patient Virgil H. on January 23, 1995 at 3:45 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Vicodin for her own use.

n. Obtained, by her own admission, one-half of two Vicodin tablets signed out to patient Virgil H. on January 23, 1995 at 10:10 p.m. by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety Code section 11173(a) in that she obtained the Vicodin for her own use.

/ / /

1 o. Obtained, by her own admission, one-half of two
2 Vicodin ES tablets signed out to patient Virgil H. on January 24,
3 1995 at 11:25 p.m. by fraud, deceit, misrepresentation, or
4 subterfuge in violation of Health and Safety Code section
5 11173(a) in that she obtained the Vicodin ES for her own use.

6 p. Possessed, by her own admission, one-half of two
7 Vicodin tablets signed out to patient Virgil H. on January 23,
8 1995 at 3:45 p.m. without a valid prescription therefor in
9 violation of Business and Professions Code section 4060 (formerly
10 section 4230).

11 q. Possessed, by her own admission, one-half of two
12 Vicodin tablets signed out to patient Virgil H. on January 23,
13 1995 at 10:10 p.m. without a valid prescription therefor in
14 violation of Business and Professions Code section 4060 (formerly
15 section 4230).

16 r. Possessed, by her own admission, one-half of two
17 Vicodin ES tablets signed out to patient Virgil H. on January 24,
18 1995 at 11:25 p.m. without a valid prescription therefor in
19 violation of Business and Professions Code section 4060 (formerly
20 section 4230).

21 s. Self-administered, by her own admission, one-half
22 Vicodin tablet signed out to patient Virgil H. on January 23,
23 1995, at 3:45 p.m. without a valid prescription therefor in
24 violation of Health and Safety Code section 11170.

25 t. Self-administered, by her own admission, one-half
26 of two Vicodin tablets signed out to patient Virgil H., on

27 / / /

1 January 23, 1995, at 10:10 p.m., without a valid prescription
2 therefor in violation of Health and Safety Code section 11170.

3 u. Self-administered, by her own admission, one-half
4 of two Vicodin ES tablets signed out to patient Virgil H., on
5 January 24, 1995, at 11:25 p.m., without a valid prescription
6 therefor in violation of Health and Safety Code section 11170.

7 Patient Donn M.

8 v. Obtained, by her own admission, one and one-half
9 of two Vicodin ES tablets signed out to patient Donn M. on
10 January 30, 1995, at 9:15 p.m. by fraud, deceit,
11 misrepresentation, or subterfuge in violation of Health and
12 Safety Code section 11173(a) in that she obtained the Vicodin ES
13 for her own use.

14 w. Possessed, by her own admission, one and one-half
15 of two Vicodin ES tablets signed out to patient Donn M., on
16 January 30, 1995, at 9:15 p.m., without a valid prescription
17 therefor in violation of Business and Professions Code section
18 4060 (formerly section 4230).

19 x. Self-administered, by her own admission, one and
20 one-half of two Vicodin ES tablets signed out to patient Donn M.,
21 on January 30, 1995, at 9:15 p.m., without a valid prescription
22 therefor in violation of Health and Safety Code section 11170.

23
24 6. Respondent has subjected her license to discipline
25 under Business and Professions Code section 2761(a) 'on the
26 grounds of unprofessional conduct, as defined in section 2762(e)
27 of that code, in that while on duty as a registered nurse at the

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1 Henry Mayo Newhall Memorial Hospital in Valencia, California, she
2 falsified, made grossly incorrect, and grossly inconsistent
3 entries in hospital and patient records in the following
4 respects:

5 Patient Jose P. (Patient Record No. 0302772-0401834)

6 a. On January 30, 1995, at 3:30 p.m., respondent
7 signed out on Controlled Substance Administration Record No.
8 54020, two Percocet tablets (contrary to physician orders for one
9 Percocet tablet orally every three hours as needed for pain).
10 Respondent charted administration of one Percocet tablet on the
11 patient's Medication Administration Record, and on that record,
12 failed to account for the remaining tablet. Respondent failed to
13 chart the disposition of the Vicodin tablets in the patient's
14 nursing notes.

15 b. On January 30, 1995, at 6:50 p.m., respondent
16 signed out on Controlled Substance Administration Record No.
17 54020 two Percocet tablets for patient Jose P., but charted the
18 administration of the Percocet on the patient's medication
19 administration record as having been administered at 6:55 p.m.

20 c. On January 30, 1995, at 6:50 p.m., respondent
21 signed out on Controlled Substance Administration Record No.
22 54020, two Percocet tablets (contrary to physician orders for one
23 Percocet tablet orally every three hours as needed for pain),
24 charted administration of one Percocet tablet on the patient's
25 Medication Administration Record, and on that record, failed to

26 / / /

27 / / /

1 account for the remaining tablet. Respondent failed to chart the
2 disposition of the Percocet tablets in the patient's nursing
3 notes.

4 d. On or about January 30, 1995, respondent failed to
5 completed medication error forms to document that, on two
6 separate occasions, she administered two Percocet tablets instead
7 of one Percocet tablet to the patient.

8 Patient Lois D. (Patient Record No. 0040722-0401095)

9 e. On January 9, 1995, at 8:00 p.m., respondent
10 signed out on Controlled Substance Administration Record No.
11 53614, two Percocet tablets (contrary to physician orders for one
12 Percocet tablet orally every three to four hours as needed for
13 pain), and failed to chart the administration of two Percocet
14 tablets on the patient's Medication Administration Record, or
15 otherwise account for the two Percocet tablets.

16 Patient Virgil H. (Patient Record No. 0153212-0401463)

17 f. On January 23, 1995, at 3:45 p.m., respondent
18 signed out on Controlled Substance Administration Record No.
19 53898, two Vicodin tablets, charted administration of one and
20 one-half tablets to the patient, and charted one-half Vicodin
21 tablet as being wasted, but failed to chart the administration of
22 the Vicodin tablets in the patient's nursing notes.

23 g. On January 23, 1995, at 10:10 p.m., respondent
24 failed to obtain a co-signature from a witness to the wastage of
25 the one-half Vicodin tablet which had been signed out on
26 Controlled Substance Administration Record No. 53898.

27 / / /

1 h. On January 23, 1995, at 10:10 p.m., respondent
2 signed out on Controlled Substance Administration Record No.
3 53898 two Vicodin tablets for patient Virgil H., but charted the
4 administration of Vicodin on the patient's medication
5 administration record as having been administered at 10:15 p.m.

6 i. On January 24, 1995, at 11:25 p.m., respondent
7 signed out on Controlled Substance Administration Record No.
8 53919, two Vicodin tablets, charted administration of one and
9 one-half tablets to the patient, and charted one-half Vicodin
10 tablet as being wasted, but failed to chart the administration of
11 the Vicodin tablets in the patient's nursing notes.

12 Patient Donn M. (Patient Record No. 0302792-0401849)

13 j. On January 30, 1995, at 9:15 p.m., respondent made
14 an unintelligible entry on Controlled Substance Administration
15 Record No. 54020 concerning the number of Vicodin tablets
16 administered.

17 k. On January 30, 1995, at 9:15 p.m., respondent made
18 an unintelligible entry on Controlled Substance Administration
19 Record No. 54020 concerning the number of Vicodin tablets wasted.

20 l. On January 30, 1995, at 9:15 p.m., respondent did
21 not annotate on the Medication Administration Record the number
22 of Vicodin tablets administered.

23
24 7. Respondent has subjected her license to discipline
25 under Business and Professions Code section 2761(a) on the
26 grounds of unprofessional conduct, as defined by section 2762(c)
27 of that code, in that on or about April 29, 1996, she was

1 convicted by the court on her plea of nolo contendere in the Los
2 Angeles County, Newhall Judicial District Municipal Court (*People*
3 *v. Carolyn Gay Vernon*, Case No. 6NE00561) to a violation of
4 Health & Safety Code section 11173(b) (false statements).

5 The circumstances of the crime for which respondent was
6 convicted are that on and between December 1, 1994 and
7 February 2, 1995, in the County of Los Angeles, respondent
8 willfully and unlawfully made a false statement in a
9 prescription, order, report or record.

10

11 8. Respondent has subjected her license to discipline
12 under Business and Professions Code section 2761(f) in that she
13 was convicted of the offense, as set forth in paragraph 7 above,
14 which is substantially related to the qualifications, functions
15 and duties of a registered nurse, within the meaning of Title 16,
16 California Code of Regulations, section 1444, in that it
17 evidences a present or potential unfitness on the part of
18 respondent to perform the functions of a registered nurse in a
19 manner consistent with the public health, safety, or welfare.

20

21 9. Respondent has subjected her license to discipline
22 under Business and Professions Code section 490 in that she was
23 convicted of a crime substantially related to the qualifications,
24 functions, or duties of a registered nurse, as set forth in
25 paragraphs 7 and 8 above.

26 / / /

27 / / /

1 10. Respondent has subjected her license to discipline
2 under Business and Professions Code section 2761(a) on the
3 grounds of unprofessional conduct, in that while on duty as a
4 registered nurse at the Henry Mayo Newhall Memorial Hospital in
5 Valencia, California, she did the following:

6 a. Permitted a Certified Nursing Assistant (CNA) to
7 mix Demerol and Viosterol, a procedure outside the scope of the
8 practice of a CNA.

9 b. Signed the narcotic medication sheet falsifying
10 she was the licensed nurse who prepared the Vistaril and Demerol
11 mixture, when she was not.

12 c. Administered the Vistaril and Demerol mixture
13 (which the CNA prepared) to a patient, even though respondent did
14 not witness the preparation or technique of the mixture.

15

16 11. Respondent has subjected her license to discipline
17 under Business and Professions Code section 2761(d) in that she
18 failed to report to the Board her change of address from 10970
19 Bluffside Dr., #6, Studio City, California to 25515 Langston St.,
20 Valencia, California, within 30 days, as required by Title 16,
21 California Code of Regulations, section 1409.1.

22

23 WHEREFORE, complainant prays that a hearing be held and
24 that the Board of Registered Nursing make its order:

25 / / /

26 / / /

27 / / /

1 1. Revoking or suspending registered nurse license
2 number 465165, issued to Carrie Rush, also known as Carolyn Gay
3 Rush, Carrie Vernon, Carrie Gay Vernon, Carolyn Gay Vernon,
4 Carrie Gay Vernon Rush, and Carolyn Gay Vernon Rush.

5 2. Ordering Carrie Rush, also known as Carolyn Gay
6 Rush, Carrie Vernon, Carrie Gay Vernon, Carolyn Gay Vernon,
7 Carrie Gay Vernon Rush, and Carolyn Gay Vernon Rush to pay to the
8 Board its costs in investigating and enforcing the case according
9 to proof at the hearing, pursuant to Business and Professions
10 Code section 125.3.

11 3. Taking such other and further action as may be
12 deemed proper and appropriate.

13
14 DATED: 8/26/97

15
16
17
18 *Ruth Ann Terry*
19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California

24 Complainant

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